

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

DEVIN A. WHITTIER, individually,

Plaintiff,

v.

SEATTLE TUNNEL PARTNERS, a
joint venture; and HARRIS REBAR
SEATTLE, INC., a Delaware
corporation,

Defendants.

No. 2:17-CV-00751-SAB

ORDER SETTING SETTLEMENT
CONFERENCE

--- ACTION REQUIRED ---

Settlement Offer due: 01/18/2024

Response to Offer due: 01/19/2024

In Camera Letters due: 01/23/2024

Settlement Conference: 01/24/2024

With the agreement of the parties to this action, a settlement conference shall commence on **Wednesday, January 24, 2024 at 9:00 a.m.**, before the undersigned, in the United States Courthouse located in Seattle: 700 Stewart Street, Seattle, Washington 98101.

The purpose of the settlement conference is to permit an informal discussion among the attorneys, parties, non-party indemnitors or insurers, and this magistrate judge of every aspect of the lawsuit bearing on its settlement value.

I. MEDIATION FORMAT

Settlement conferences typically are scheduled for a full, uninterrupted business day. The Court generally will use a mediation format: that is, a joint introductory session followed by private caucusing by the Court with each side. The Court expects the parties and the party representatives to be fully prepared to

participate. The Court encourages all parties to keep an open mind, to reevaluate their previous positions, and to discover creative means for resolving the dispute.

Counsel who will try the case, and all named parties, must be **physically present** at this conference in Seattle, Washington, and ready to proceed at 9:00 a.m. The person with full settlement authority must be available and must have the ability, within his or her discretion, to permit payment in full of the request for relief under the claims, counterclaims, and cross-claims, up to the limits of the opposing party's settlement demand that is produced as a result of this order as provided below. The parties are responsible for timely advising any involved non-party insurance company of the requirements of this Order. This magistrate judge may, in his discretion, converse with the lawyers, the parties, the insurance representatives, or any one of them separately, prior to and during the conference.

II. SUBMISSIONS

On or before **January 18, 2024**, Plaintiff shall serve upon Defendants, with an *in camera* copy to the undersigned, a written offer of settlement, which includes monetary and non-monetary components, if any, with supporting reasons, and with an itemization of Plaintiff's damages, unless an itemization of damages previously has been provided. On or before **January 19, 2024**, Defendants shall serve Defendants' counter-offers and supporting reasons upon Plaintiff, and provide an *in camera* copy to the undersigned. Copies shall be emailed to:

EkstromOrders@waed.uscourts.gov

Failure to comply with this requirement may result in cancellation or rescheduling of the settlement conference.

In preparation for the settlement conference, each party shall submit an *in camera* letter, labeled confidential, to the undersigned on or before **11:00 a.m., PST, on January 23, 2024**. Do not file copies of these letters on the court docket, and do not serve these letters on the opposing party. The *in camera* letters shall set forth the following:

1. Name and title of the client who will be present throughout the conference and will be authorized to enter into a settlement agreement, and the names and titles of any other persons who will accompany the party to the conference;
2. A brief analysis of key issues involved in the litigation;
3. A description of the strongest and weakest points in the party's case, both legal and factual (the parties are invited to include as letter attachments copies of key depositions);
4. A description of the strongest and weakest points in the opponent's case, both legal and factual;
5. Itemization of damages, fees, and costs;
6. Status of any settlement negotiations, including the last settlement proposal made by the party and opposing parties;
7. Settlement proposal the party believes to be fair; and
8. Settlement proposal the party is willing to accept to conclude the matter and stop the expense of litigation.

In camera copies shall be emailed to: EkstromOrders@waed.uscourts.gov

Failure to submit an *in camera* letter may result in cancellation or rescheduling of the settlement conference.

All communications made in connection with the settlement conference are confidential and will not be disclosed. Any documents requested and submitted for the settlement conference will be maintained in chambers and will be destroyed after the conference. Neither the settlement conference statements nor any communications occurring during the settlement conference can be used by any party with regard to any aspect of the litigation or trial of this case.

III. OTHER PROTOCOLS

The Court expects the parties to address each other with courtesy and respect. Parties are encouraged to be frank and open in their discussions. As a result, statements made by any party during the settlement conference are not to be used in discovery and will not be admissible at trial. The Court further expects the

1 parties to proceed in good faith, to anticipate a settlement, and have available at the
2 time of the conference a “settlement agreement” in a form acceptable to them for
3 signature by all parties when a settlement is reached.

4 **IT IS SO ORDERED.**

5 DATED January 16, 2024.



Alexander C. Ekstrom

ALEXANDER C. EKSTROM

UNITED STATES MAGISTRATE JUDGE

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